



Date..... September 24, 2018.....

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF WEST MARTIN LUTHER KING, JR. PARKWAY RIGHT-OF-WAY ADJOINING LOT 1, GRAY’S STATION PLAT 1, AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO HRC NFS I, LLC FOR \$7,500.00

WHEREAS, on August 6, 2018, by Roll Call No. 18-1329, the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a request from HRC NFS I, LLC to vacate the air rights in a portion of West Martin Luther King, Jr. Parkway adjoining Lot 1, Gray’s Station Plat 1, Des Moines, Iowa (hereinafter “City Right-of-Way”), further described below, to allow for the permanent encroachment of balcony and building overhang elements into the City Right-of-Way; and

WHEREAS, HRC NFS I, LLC subsequently requested the vacation of a portion of the City Right-of-Way to allow for the encroachment of door stoops and steps, door swings, bike racks, and building footings and foundations into the vacated right-of-way, which request has been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

WHEREAS, HRC NFS I, LLC, owner of the adjoining property, has offered to the City the purchase price of \$7,500.00 for the purchase of a Permanent Easement for Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property in said City Right-of-Way, hereinafter more fully described, which represents \$4,364.00 for the Permanent Easement for Air Space Above City-owned Property, and \$3,136.00 for the Permanent Easement for Building Encroachment, to allow for encroachment into the City Right-of-Way of balcony and building overhang elements, door stoops and steps, door swings, bike racks, and building footings and foundations, which price reflects the fair market value of the Permanent Easement for Building Encroachment and Permanent Easement for Air Space Above City-Owned Property as determined by the City’s Real Estate Division; and

WHEREAS, there is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation and the conveyance of the Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property within said City Right-of-Way; and

WHEREAS, on September 10, 2018, by Roll Call No. 18-1553, it was duly resolved by the City Council of the City of Des Moines, Iowa, that said proposed vacation and conveyance be set down for hearing on September 24, 2018, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of the proposal to vacate said City Right-of-Way and convey a Permanent Easement for Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

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WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council of the City of Des Moines, Iowa.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property, as described below, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of West Martin Luther King, Jr. Parkway adjoining Lot 1, Gray's Station Plat 1, Des Moines, Iowa, more specifically described as follows, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated:

A PART OF THE RIGHT OF WAY OF WEST MARTIN LUTHER KING JR. PARKWAY LYING, NORTH OF LOT 1, GRAY'S STATION PLAT 1, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 84°40'04" WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 193.85 FEET; THENCE SOUTH 86°10'40" WEST CONTINUING ALONG THE SAID NORTH LINE, 100.23 FEET TO A CORNER OF SAID LOT 1; THENCE NORTH 03°49'20" WEST, 5.00 FEET; THENCE NORTH 86°10'40" EAST, 33.35 FEET; THENCE NORTH 02°05'55" WEST, 12.01 FEET; THENCE NORTH 86°10'40" EAST, 142.18 FEET; THENCE NORTH 84°40'04" EAST, 53.94 FEET; THENCE SOUTH 04°39'09" EAST, 10.00 FEET; THENCE NORTH 84°40'04" EAST, 63.94 FEET; THENCE SOUTH 05°19'56" EAST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.08 ACRES (3,643 SQUARE FEET).

AND

A PART OF THE AIR RIGHTS IN THE RIGHT OF WAY OF WEST MARTIN LUTHER KING JR. PARKWAY LYING NORTH OF LOT 1, GRAY'S STATION PLAT 1, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 84°40'04" WEST ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 28.97 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 84°40'04" WEST ALONG SAID NORTHERLY LINE, 164.88 FEET; THENCE SOUTH 86°10'40" WEST CONTINUING ALONG SAID NORTHERLY LINE, 100.23 FEET; THENCE SOUTH 00°21'12" EAST CONTINUING ALONG SAID NORTHERLY LINE, 8.59 FEET; THENCE NORTH 89°04'27" WEST CONTINUING ALONG SAID NORTHERLY LINE, 4.11 FEET; THENCE NORTH 05°19'56" WEST, 11.14 FEET; THENCE NORTH 84°40'04" EAST, 120.17 FEET; THENCE SOUTH 05°19'56" EAST, 5.67 FEET TO SAID NORTHERLY

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LINE OF LOT 1; THENCE NORTH 82°14'52" EAST, 122.14 FEET; THENCE SOUTH 84°46'59" EAST, 28.17 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (959 SQUARE FEET). APPROXIMATE GROUND ELEVATION IS 29.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 46.00 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 95.00 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

3. That the conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property within said vacated West Martin Luther King, Jr. Parkway right-of-way, as described below, to HRC NFS I, LLC, for \$7,500.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, is hereby approved:

Building Encroachment Easement

A PART OF THE VACATED RIGHT OF WAY OF WEST MARTIN LUTHER KING JR. PARKWAY LYING, NORTH OF LOT 1, GRAY'S STATION PLAT 1, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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Air Space Easement

A PART OF THE VACATED AIR RIGHTS IN THE RIGHT OF WAY OF WEST MARTIN LUTHER KING JR. PARKWAY LYING NORTH OF LOT 1, GRAY'S STATION PLAT 1, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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Date September 24, 2018

BEING APPROXIMATELY 95.00 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

(VACATED BY ORDINANCE NO. _____, PASSED _____, 2018);

4. The Mayor is authorized and directed to sign the Offer to Purchase, Permanent Easement for Building Encroachment, and Permanent Easement for Air Space Above City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon final passage of an ordinance vacating said City Right-of-Way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property and copies of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

 **Roll Call Number**

Agenda Item Number

45

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Date September 24, 2018

Moved by _____ to adopt.

APPROVED AS TO FORM:



 Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

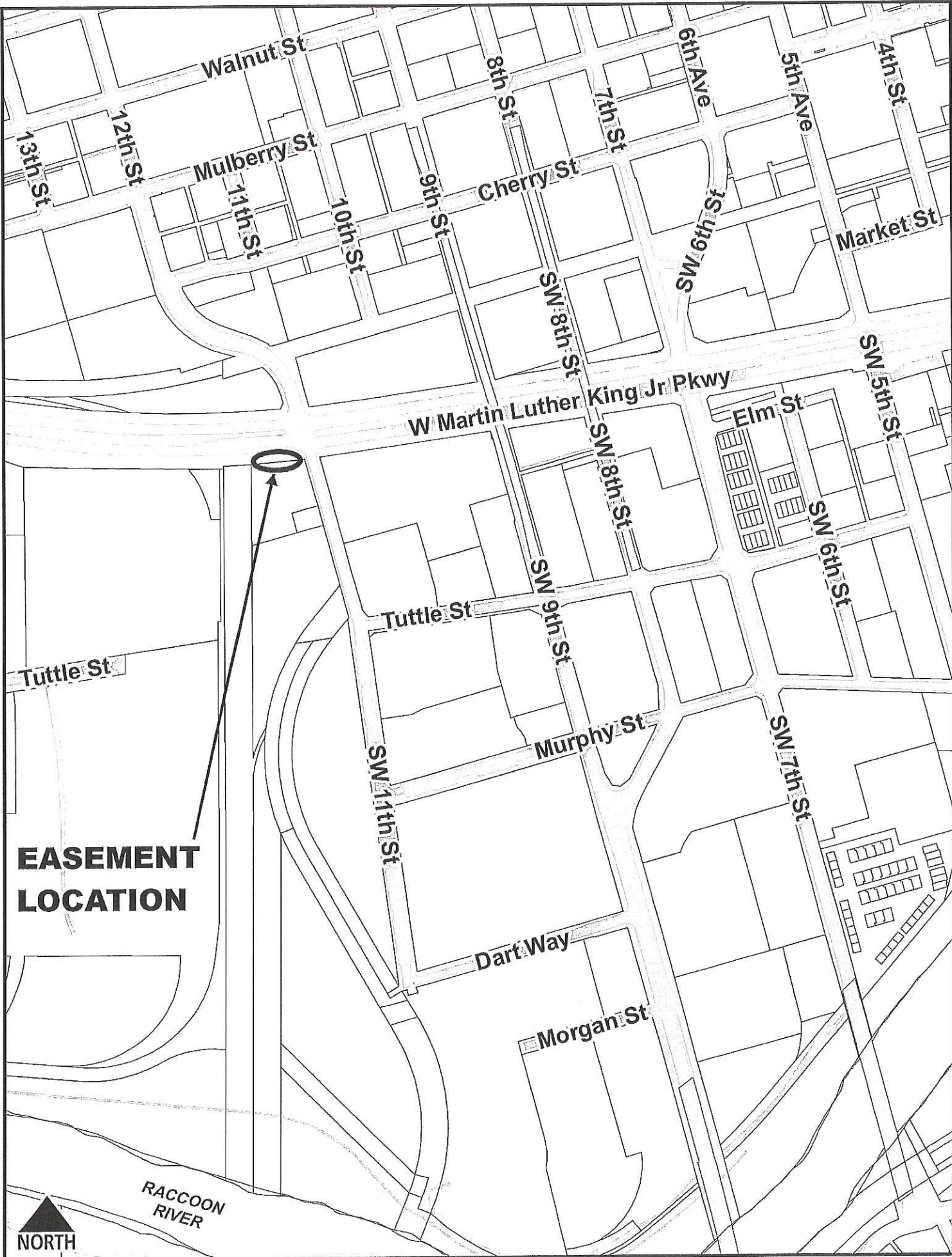
CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

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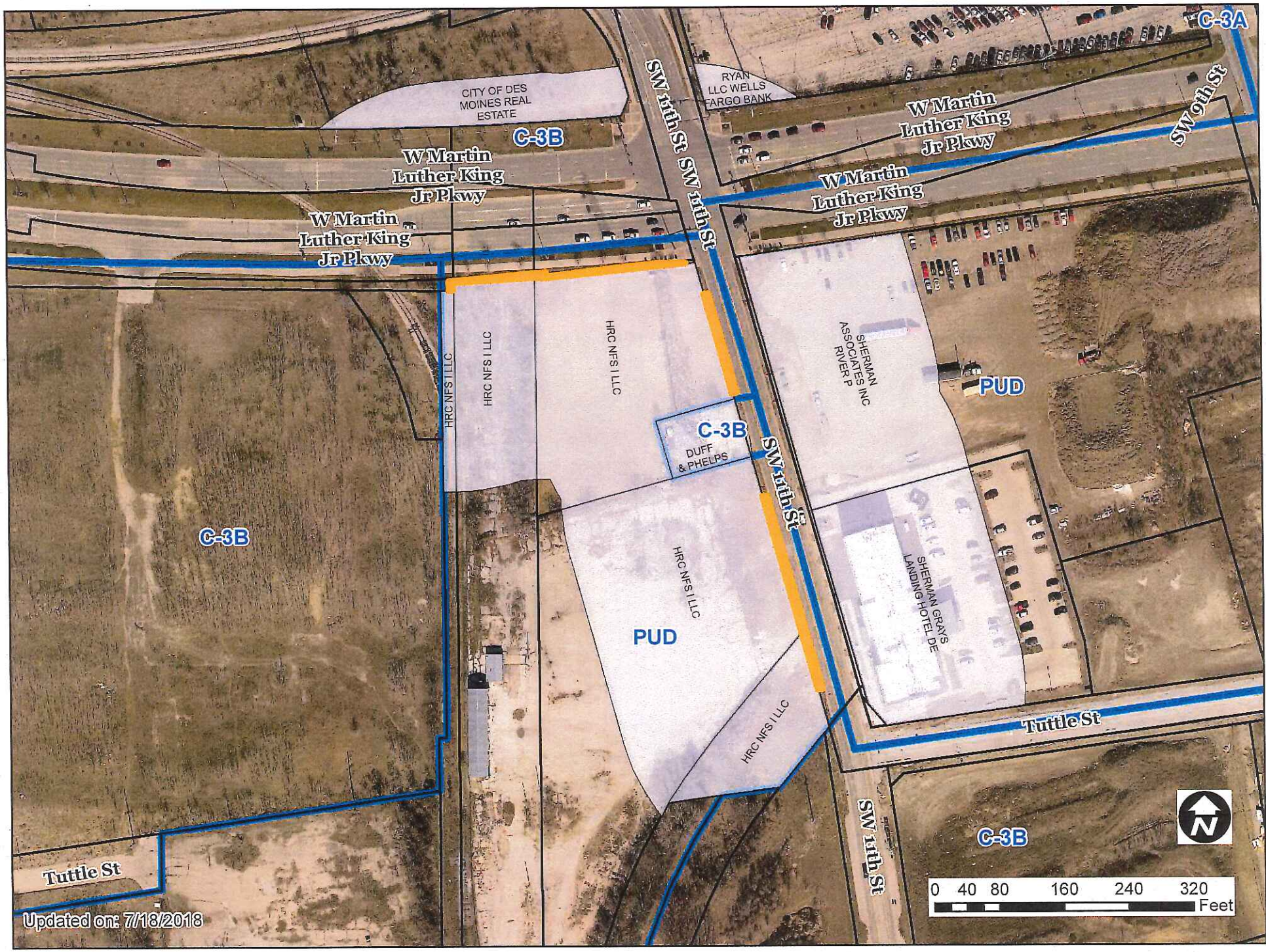


**EASEMENT
LOCATION**



RACCOON
RIVER

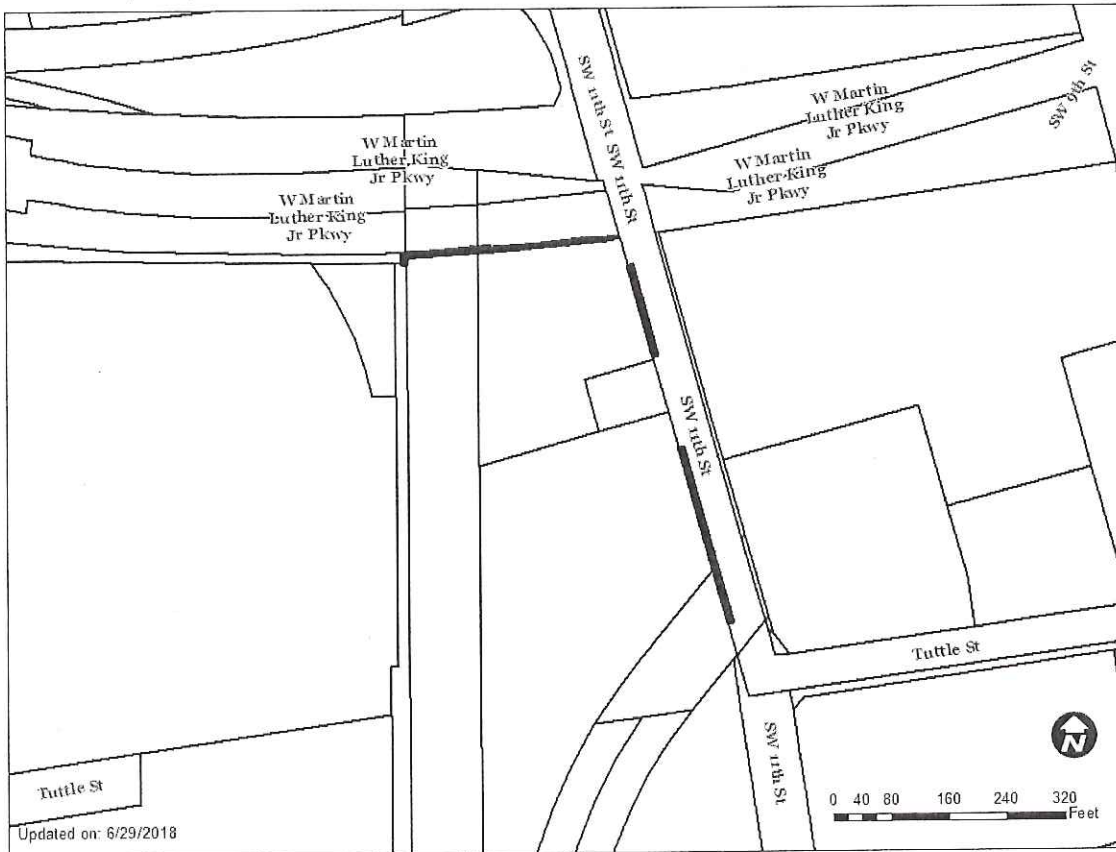
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HRC NFS I, LLC, (owner) represented by Kris Sadoris (officer) for property located at 210 and 310 Southwest 11th Street.				File #	
				11-2018-1.16	
Description of Action		Vacation of air rights on the adjoining south 5.67 feet of West M.L. King Jr. Parkway and the west 4.75 feet of Southwest 11th Street Rights-Of-Way (ROW), to allow for balconies and building overhang encroachments for proposed multi-family dwellings.			
PlanDSM Future Land Use		Current: Downtown Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan		No planned improvements.			
Current Zoning District		"PUD" Planned Unit Development, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District		N/A.			
Consent Card Responses		In Favor	Not In Favor	Undetermined	% Opposition
Subject Property		0	0		
Outside Area (200 feet)					
Plan and Zoning Commission Action		Approval	X	Required 6/7 Vote of the City Council	
		Denial		Yes	
				No	X

HRC NFS I, LLC, 210 & 310 Southwest 11th Street

11-2018-1.16



1 inch = 156 feet

July 31, 2018

Date September 24, 2018

Agenda Item 45

Roll Call # _____

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their July 19, 2018 meeting, the following action was taken regarding a request from HRC NFS I, LLC, (owner) 210 and 310 Southwest 11th Street, represented by Kris Saddoris (officer) for vacation of air rights on the adjoining south 5.67 feet of West M.L. King Jr. Parkway and the west 4.75 feet of Southwest 11th Street Rights-Of-Way (ROW), to allow for balconies and building overhang encroachments for proposed multi-family dwellings.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Chris Cutler				X
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison				X
Greg Jones	X			
William Page				X
Mike Simonson				X
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier			X	

APPROVAL of the requested vacations to accommodate the revised building elevations.

(11-2018-1.16)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacations to accommodate the revised building elevations.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** On February 15, 2018, the Commission conditionally approved the PUD Development Plan for the Linc project, which consists of a 5-story, 84-unit multiple-family residential building; a 5-story, 131-unit multiple-family residential building; and a 1-story clubhouse building.

On April 19, 2018, the Commission conditionally approved a major Preliminary Plat to allow the subject property to be subdivided for two development parcels and two parcels to be dedicated for public street right-of-way.

The proposed vacations of air rights would allow additional balconies to be provided along the front facades of the buildings than originally proposed. In addition, the vacations would allow for the buildings to have an overhang that protrudes past the property line as an architectural feature. Additional information on building design modifications can be found in Section II(3) of this report.

2. **Size of Site:** 5.36 acres (233,695 square feet).
3. **Existing Zoning (site):** "PUD" Planned Unit Development, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition District and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Vacant land.
5. **Adjacent Land Use and Zoning:**
 - East** - "C-3B" & "PUD"; Uses are a cell tower, a hotel, and vacant land within the Gray's Landing Office I PUD.
 - West** - "C-3B"; Use is vacant land.
 - North** - "C-3B"; Use is the Martin Luther King, Jr. Parkway corridor.
 - South** - "PUD" & C-3B"; Uses are vacant industrial property.
6. **General Neighborhood/Area Land Uses:** The subject site is located in the southwest portion of the downtown. The surrounding area consists of vacant land, commercial uses, multiple-family residential uses, light industrial uses, the Raccoon River and Gray's Lake.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Downtown Des Moines Neighborhood. All neighborhood associations were notified of the Commission meeting by mailing of the Preliminary Agenda on June 29, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on

July 9, 2018 (10 days prior to the hearing) to the Downtown Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject ROW. A final agenda was mailed on June 15, 2018.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Downtown Des Moines Neighborhood Association notices were mailed to Austin Lewis, 915 Mulberry Street, Unit 504, Des Moines, IA 50393.

8. **Relevant Zoning History:** On July 24, 2017, the City Council conditionally approved the Gray's Station PUD Conceptual Plan and the first reading of the rezoning ordinance by Roll Call Number 17-1295. On August 2, 2017, the City Council approved the second reading of the rezoning ordinance by Roll Call Number 17-1307. On August 14, 2017, the City Council approved the final reading of the rezoning by Roll Call Number 17-1407, thereby approved Ordinance Number 15,600. The rezoning and PUD Conceptual Plan were reviewed by the Plan and Zoning Commission on July 6, 2017 and July 20, 2017.

The Gray's Station PUD Conceptual Plan allows 83.73 acres of former industrial land to be converted into a residential and mixed-use development. The northeast and southwest portions of the site would contain mixed-use development. A large-scale storm water basin area is proposed along the southern perimeter of the development that would include a wetland park component. The core of the development would allow for a mix of detached, semi-attached and rowhouse single-family dwellings as well as small multi-family buildings. Multi-story, multiple-family residential buildings are proposed along the north and south perimeters of the street network.

The PUD Conceptual Plan sets a minimum density for the development and basic design parameters. The exact makeup of the development would be determined by the PUD Development Plan of each phase. A total of three phases are identified on the Conceptual Plan that would have a combined total of at least 1,100 dwelling units. This equates to 13 dwelling units per gross acre (83.73 acres) or 28 dwelling units per net acre (39.2 acres).

9. **PlanDSM Land Use Plan Designation:** The subject site is designated as "Downtown Mixed Use" on the Future Land Use Map. The balance of the Gray's Station PUD is designated a mix of "Downtown Mixed Use" and "Neighborhood Mixed Use" on the Future Land Use Map.
10. **Applicable Regulations:** The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** Staff is not aware of any conflicts that would be created with existing utilities by the proposed vacations of air rights.

2. **Street System/Access:** The requested vacation of air rights would not impact the existing street system, or vehicular and pedestrian movement in the area.
3. **Additional Information:** On February 15, 2018, the Commission reviewed the PUD Development Plan for the proposed project. Since that time, staff has continued to work with the development team, Office of Economic Development staff and the Urban Design Review Board on the architecture of the proposed buildings. The following is a summary of improvements that have been made since the Commission saw the design in February.

North Building

- *Front entry glass/metal wall and cantilevered roof form at 5th floor common patio.* Minor changes to the amount of glass at the front entry. The breakdown of the glass windows has a better pedestrian scale now at the first floor and along the commercial entry wall fronting Martin Luther King, Jr. Parkway.
- *MLK "bent" warm metal cantilevered form.* This form is retained and increased vertically to include the 4th floor. The changes improved the proportions of the overall form.
- *Exterior material proportions.* The amount of "warm color" metal panels have been increased.
- *Exterior private space.* Twelve (12) aluminum and glass balconies were added along Martin Luther King, Jr. Parkway on the grey metal mass at the west end. Nineteen (19) recessed patios were added along Martin Luther King, Jr. Parkway in the warm material bent form area. These added exterior spaces will bring more "life" to the MLK side of the development and better demonstrate the residential vitality of the building. No other balconies were added or changed.
- *MLK recessed commercial entries.* The recessed entrances were removed due to cost and space programing needs.

South Building

- *Rear parapet walls.* The parapet walls on the parking lot side of the entire building have been raised to block the views of the HVAC equipment.
- *Exterior private space.* Six (6) recessed private patios were added to the second floor along 11th Street. Thirteen (13) wood /metal clad balconies were added to the second floor along Tuttle Street. Additional balconies and patios will add to the pedestrian vitality along the streets. Thirteen (13) wood/metal clad balconies on the parking lot side at the second floor were added. One wood/metal clad balconies on the north short side at the entry drive was added.

SUMMARY OF DISCUSSION

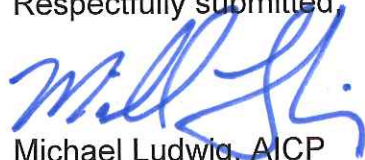
Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

Greg Jones made a motion for approval of the requested vacations to accommodate the revised building elevations.

Motion passed: 9-0-1

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments